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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/185,703	11/04/1998	FREDERICK R. GUY	06053.0001-0	5673
7590	10/04/2004			
Mr. John F. Sweeney mORGAN & FINNEGAN 345 Park Avenue New York, NY 10154			EXAMINER CHENG, JOE H	
			ART UNIT 3713	PAPER NUMBER

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/185,703	Applicant(s) GUY ET AL.	
	Examiner Joe H. Cheng	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the Amendment filed 7/14/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-138 is/are pending in the application.
- 4a) Of the above claim(s) 46-58, 60, 61 and 74-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-45, 59, 62-73 and 78-138 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/14/2004 has been entered.

2. In response to the Amendment filed on July 14, 2004, claims 1-40 have been cancelled, claims 41-130 and the newly added claims 131-138 are pending, wherein claims 46-58, 60, 61 and 74-77 are withdrawn from further consideration by the examiner as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 62-73, 93, 114, 115 and 136 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "with data originating at the host *or* with data received from another computer electronically connected to the host, *or* with both data originating at the host and data received from another computer electronically connected to the

Art Unit: 3713

host” (as per claim 62), “as audio *or* as video *or* as both audio and video” (as per claim 68), “via a public network *or* via a private network *or* via a private network and a public network” (as per claim 93) and “a public network *or* a private network *or* including a private network and a public network” (as per claim 114) are vague and indefinite, because these are alternate expressions and are subjected to more than one interpretation. Further, the antecedent basis for “*video* and data included in the broadcast signal” (as per claim 69) has not been clearly set forth. Finally, claims 63-67, 70-73, 114, 115 and 136 are rejected for incorporating the above errors from their respective parent claims by dependency.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 41-45, 62-73 and 78-138 as best understood are rejected under 35 U.S.C. § 102(a) as being anticipated by Handelman (European Pat. No. EP 0 639 918 A1). The broadly claimed structure can be interpreted as the CATV systems of Handelman. Figs. 1-6C of Handelman broadly discloses the system for remote communication between the host facility and remote client or the computer-readable medium containing instructions for integrating a continuous signal of images and sounds with a data signal as a signal in a host server communicably connected to a broadcasting facility that transmits the signal such that the signal is capable of being received by a plurality of client facilities (14, 114) comprising receiving at the host data

Art Unit: 3713

from at least one of the plurality of client devices that each employ its corresponding module to send data in response to user input acquired by the module, providing at the host at least a portion of the received data into a signal provided for transmission to the plurality of client devices as a broadcast signal, combining the received data defining actions as at least a part of the signal, such as e-mail or a bulletin board system, wherein the at least a portion of the received data that is provided into the signal provided for transmission is addressed to a specific one or more of the plurality of client devices, and the host receives data from the plurality of client device via a public or private network, and the signal is provided for transmission by broadcast through the atmosphere (12, 112) or over a cable network (124) (see from column 5, line 39 to column 13, line 13).

Response to Arguments

7. Applicant's arguments filed on July 14, 2004 with respect to claims 41-45, 59, 62-73 and 78-138 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

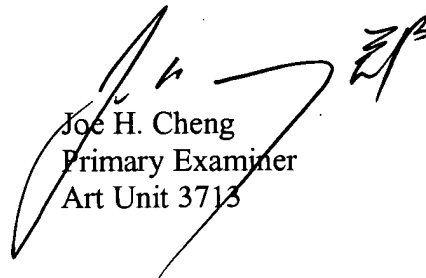
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (703)308-2667. The examiner can normally be reached on Tue.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (703)308-2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joe H. Cheng
September 29, 2004



Joe H. Cheng
Primary Examiner
Art Unit 3713